

Date: February 17, 2012

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Fm: Charlie Dean
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**Re: Response to time and page restrictions regarding this appeal process.
(Ch. 15 Disciplinary Hearing on 12/20/2011)**

Dear Synod Council:

Tim Heine (Complainant) withheld exculpatory evidence prior to the 12/20/2011 Ch. 15 hearing, and at the Ch. 15 hearing, and during the ordinary time for my appeal. It was not until February 14, 2012 and February 16, 2012 that I had the opportunity to begin to review such material. Some of this material arrived on a CD and the rest came by email attachments. At this point in time, my appeal is less complete than it could be, through no fault of my own.

Now it appears that the Congregational Council will have an opportunity to provide a five-page response to my (incomplete) appeal, and I may be limited to a five-page rebuttal. This would leave me with a less complete appeal. Due Protection is mentioned three time in the ELCA Constitution, and Due Process is mentioned nine times. This is a complicated matter, and the Congregational Council has been able to complicate it more, to my disadvantage. I want to point out some things:

Per 20.41.05 (ELCA Const.), "...Should renewed admonition prove ineffectual, the

council shall impose one of the following disciplinary actions...” Upon my finding of guilt, **there was no “renewed admonition”**. This is apparent from the recording of the 12/20/2011 hearing.

The 30 days that 20.41.A01 provides for written notice to the Synod Council has been made inadequate by the Congregational Council **withholding and delaying exculpatory evidence**.

Per 20.41.A01.(c) “... the Congregation Council must furnish the record on appeal to the Synod Council ... certifying to the completeness ... (8) ... **that the successive steps** required by ... the Constitution, Bylaws, and Continuing Resolutions of the Evangelical Lutheran Church in America” **have been followed**. The Congregational Council has failed to show that it followed and complied with such requirements, and it has not admitted such failure.

ELCA CONSTITUTION (20.41.03) was not followed.

Advent’s leadership failed to comport with the sequence of events as set out in 20.41.03 of the ELCA CONSTITUTION.

20.41.03. If discipline against a member proceeds beyond counseling and admonition by the pastor, charges against the accused member(s) that are specific and in writing shall be prepared by member(s) of the congregation who shall sign the charges as the accuser(s). The written charges shall be filed with the pastor, who shall advise the Congregation Council of the need to issue a written citation to the accused and the accusers that specifies the time and place of the hearing before the Congregation Council. The written charges shall accompany the written citation to the accused.

If one believes that there were admonitions by the Pastor on 11/29/2011, then subsequently, members of the congregation should have prepared written charges and signed the charges as the accusers. This was not followed, as the paperwork was prepared and signed beforehand. Therefore, there were no (properly prepared) written charges that could be filed with the Pastor. The Pastor did not subsequently advise the Congregation Council of the need to issue a written citation, as the Citation had already been drafted and signed.

I suggest that one reason for 20.41.03 is to keep all parties advised of where they are in the Ch. 15 process and to cut down on secrecy, deception, and sneakiness. The purpose is surely not to allow certain individuals to skate through the process and surprise the target with (1) various conclusory claims against him, (2) no explanation of issues to be dealt with before the tribunal, (3) almost no explanation of process of the upcoming hearing, (4) almost no explanation of the Chapter 15 process, and (5) no explanation of how the church leaders may have met the prerequisites of a Chapter 15 hearing.

The Synod Council, per 20.41.A01(d), should take notice that the Congregational Council failed to reveal this in the record on appeal, and the Synod Council should take further action against the Congregational Council for its failure to adhere to 20.41.03.

It has been difficult, if not impossible, under 20.41.A01(e) to completely and adequately “present a written statement of reasons why the decision of the Congregation Council should be reversed or set aside.” Further, under 20.41.A01(e), the due dates and page limitations apply to the written response of the Congregational Council and to my written rebuttal, and **not the appeal itself**.

My right to an adequate and full opportunity for an appeal, considering Due Process and Due Protection, has been diminished, and my right should not be subsumed and diminished under 20.41.A01(e).

If the Synod Council considers the appeal solely on the basis of the record and written statements under 20.41.A01(h), under the present circumstances it will clearly appear that I have not received Due Process and Due Protection.

Now that I have a lot more church documents, I am able for the first time to see what was going on behind the scenes. I needed access to this when I wrote my appeal letters of January 9 and 27, 2012. It is very unfair now (1) to limit me to five pages, and (2) to permit me to merely respond to the Congregational Council's response to my appeal letters. I was handicapped at the hearing on 12/20/2012, and I am now handicapped in the appeal process.

Council officers owe the Congregation (1) truth, (2) leadership, and (3) solutions. Officers [1] have been untruthful and evasive, [2] have not provided adequate leadership, and [3] have not provided reasonable solutions. My pointing this out has put leaders in a bad light and has motivated them to use their positions of leadership and ELCA governing documents vindictively. Further, the congregation of Advent Lutheran Church, and others, deserves to know more about what has occurred. If I do not document and present these occurrences and practices, the congregation, and others, will never be aware of them.

Council Minutes of January 2011.

The Council Minutes of **January, 2011** ("20110118 - Jan2011 Council Minutes.doc"), on page 3, show that Tim Heine sought and obtained approval on four motions. I saw this for the first time on February 14, 2012. I will refer to these as Tim's#1, -#2, -#3, & -#4. The 1st, 3rd, and 4th actions and procedures exceeded the Council's authority.

Tim's#1:

"...This site owner has also taken liberties with some of our church documents and information that were not approved by council."

This statement, by innuendo, asserts that the site owner (i.e., myself) needed Council approval to post the material. The assertion is false and misleading. **Council has no authority to grant itself the authority** to dictate that a member must have authority to post non-exempt material, as this diminishes the rights and privileges of members under the Constitution, and improperly enhances the authority of officers. If Council officers crave such authority, they should ask the congregation for it, and the congregation might decide to amend the Constitutional.

Tim's#3:

"...Church data and documents (past, present and future) are hereby declared privileged and private to the membership of Advent Lutheran Church unless approved and designated for public distribution by church council. No document unless explicitly marked "Approved for Public Distribution by Council" shall be distributed or otherwise made public in any manner. Any data or documents presently publicized in conflict with this declaration shall be immediately removed from such publication."

Council has no authority to grant itself the authority to dictate that the use of non-exempt documents is restricted. This diminishes the rights and privileges of members under the Constitution and enhances the authority of officers. If Council officers think they need this authority, they should ask the congregation for it, and perhaps, again, the congregation would amend the Constitution.

Tim's#4:

“The ... Advent web site is ... www.adventhouston.org. ... all content on ... this site in the non-member area is hereby deemed “Approved for Public Distribution by Council”. ... all content on ... this site in the member area is deemed privileged and private to the membership of Advent Lutheran Church.”

Council has no authority to grant itself the authority to convert non-exempt documents into exempt (restricted) documents. This diminishes the rights and privileges of members under the Constitution, and enhances the authority of officers. A Constitutional Amendment would be needed for this.

Perhaps Tim and his associates thought they were producing a continuing resolution under (Chapter 18). If this is the case, they grossly miscomprehend the scope of that mechanism. The purpose of a continuing resolution is to set out the function of a committee, describing the function of the various committees or organizations of this congregation. Its purpose is not to restrict the rights and privileges of members, nor to enlarge the authority of the officers.

Ratcheting down on rights and privileges of the congregation, or ratcheting up the authority of Council, requires a Constitutional Amendment. It is improper that Pastor Beck (the chief executive officer of the corporation) could allow such activities to occur without any objection, and I would hope that the Synod would concur with me on this issue.

As it clearly appears that Tim based some of his allegation (charges within the Citation) on false authority; and as the self-serving authority from the three motions clearly appear to mimic Tim's perceived authority that was used against me at the 12/20/2011 Ch. 15 disciplinary hearing; and as a reasonable review of the record by church leaders could have revealed this and cut short the Ch. 15 process; and as **the Congregational Council has failed to admit to this**; and as it clearly appears that this violates the spirit of 20.41.A01(c); therefore, the record from the Congregational Council is not as complete and accurate as it should be, because it fails to make the admission.

The “successive steps required” under 20.41.A01(c)(8) were not legitimately followed because the Congregational Council chose not to do a reasonable investigation early on; most of the Congregational Council officers acted as accomplices with Tim Heine, and this is not within the spirit of 20.41.02. I urge the Synod Council to pursue appropriate remedies under 20.41.A01(d).

Tim Heine's modus operandi.

Tim Heine's modus operandi has been (1) to dictate what his authority is, without bothering to specify from whence it specifically derives; then (2) to get angry when he cannot manipulate persons and circumstances to his satisfaction; and (3) to bully by reason of his inaccurate perception of his authority. Tim's emotions are clearly apparent in an **August 2, 2011** email exchange (“20110802 - Email.pdf”) between him and **Cathy Tiemann** where Cathy says

“Charlie has NEVER contributed a penny to Advent ... I know he can’t vote ...” (both of which assertions are not true) and **Tim** states that “**I’m so fed up with him...**” This clearly shows that Tim was fed up because I was not adequately persuaded nor intimidated by his ignorance of proper procedure and authority and his assertions of exaggerated power.

Timeline of events.

The timeline of events clearly shows that my first censorship letter of **October 18, 2011** spurred Tim into pursuing the Ch. 15 process against me, and that Tim used Ch. 15 vindictively to silence (censor) me and to quell my assertions in the 10/18/2011 letter. An excerpt from my letter follows:

“This controversy is about (1) unreasonable and unauthorized censorship, and (2) a church members authority to expect access to non-exempt material, and (3) a church member’s authority to expect access to the Congregational Council, and (4) a church member’s authority to notify everyone when there are problems with 1, 2, or 3.”

My intent to represent gays and lesbians.

On **October 29, 2011** I sent an email (“20111031 - Email - Dean ltr.pdf”) to the Gulf Coast Synod giving notice of my intent to represent the gays and lesbians before the Review Committee concerning the three discriminatory Amendments. On **October 31, 2011** Tim Heine sent an email (“20111031 - Email - Dean ltr.pdf”) to Pastor Beck, Mark Dentler, Ron Held, and James Cassens, referring to me as “getting more delusional, irritated and unpredictable” in response to (1) my intent to represent gays and lesbians; (2) my assertion that “Council has done no study on this problem. Council has not kept the Congregation adequately informed;” (3) my suggestion that Council acknowledge the existence of the class of undesirable people with a continuing resolution under C14.02., and (4) my statement that I would like to post my work on the Internet as an example for others to use. Tim then asked whether “We’re [(church leaders)] equipped to handle this”. This is clear evidence that **the leadership equipped itself by conspiring to misuse the Ch. 15 disciplinary process**. I have not yet received the response from the Congregational Council; however, if the Congregational Council were to pretend and assert that my intent to represent gays and lesbians in the appeal was not an aggravating factor behind the Ch. 15 process, it would simply be unrealistic and, quite frankly, dishonest.

On **November 3, 2011** I had a meeting with James Cassens, Mark Dentler, and Pastor Beck. As I review the minutes (“20111103 - Charlie Dean meeting 11-3-11.PDF”) that James took, I see that he documented the meeting to his advantage and to my disadvantage. At the meeting of November 3, 2011, Pastor Beck mentioned “gays and lesbians” at least twice and made reference to my notice to represent them on the appeal. However, the way James drafted the minutes of the 11/3/2011 meeting, it appears that I (not Pastor Beck) raised the matter of representing gays and lesbians, and that 11/3/2011 (not 10/29/2011) was Council’s first notice of this. **James’s inaccurate transcription of the minutes was deceptive, and misleading, and Mark and Pastor Beck went along with it.** I should point out that when Pastor Beck called me to set up the meeting of 11/3/2011, he mentioned the 10/29/2011 correspondence. It was my understanding that the meeting was being scheduled due to my 10/29/2011 letter.

My letter of **November 27, 2011** to Pastor Beck (“Pastor.Beck.11_27_11.pdf”) deals with the congregation’s lack of access to property, misconduct of officers, leaders being ignorant of the

governing document, bullying, and a church member's bill of rights. The punitive and retaliatory response of James Cassens and Mark Dentler was to prepare a Citation to Appear Before Council for a Ch. 15 disciplinary hearing.

First notice that I was a target.

On **November 29, 2011** I first learned that I was a target of a Ch. 15 process when Pastor Beck showed me the Citation, about 40 days after Tim was in receipt of my 10/18/2011 letter. The various steps and prerequisites of a Ch. 15 process were not revealed to me on 11/29/2011, and this forced me to guess at what Tim and the Advent hierarchy would claim such steps and prerequisites to be, and how they had been fulfilled.

Tim stated (19 minutes into the hearing) that on 11/29/2011, "Pastor Beck admonished Charlie and this was not effective." Tim fails to explain what action I could have avoided for the putative admonishment to be "effective" (It should have been clear to any church leader on 11/29/2011 that (1) it was no longer my practice to email members, and (2) the website had been made inaccessible.). Tim continued to say that I was admonished before two witness (James and Mark) and, that it, too, was ineffective. Again, Tim fails to explain what I might have avoided for the admonishment to be "effective". What would Tim have considered *effective*? Standing on my head? Singing the *Love Sick Blues*? Pastor Beck fails to clarify this, and James and Mark failed to testify, as to what I was to do pursuant to any such admonishment.

Pastor Beck stated (39 minutes into the hearing) that (1) the basis of persistent trouble-making in the congregation was my letters concerning censorship; that (2) un-discernable issues also form the basis of trouble-making; and that (3) my accusations of censorship have upset the membership.

[1] By Pastor Beck's admission, Ch. 15 was used to quash my accusations of censorship.

[2] By Pastor Beck's admission, un-discernable issues were made the basis of the Ch. 15 process. This comports with the 5th un-numbered point in the Citation, which also mentions "issues that are becoming increasingly difficult to discern". It might behoove the Advent's leadership to discern issues before using ignorance as a basis of a Ch. 15 proceeding. One must wonder how anything that is even difficult to discern, and therefore vague and nebulous, could be a solid basis for any accusation whatsoever.

[3] Though Pastor Beck testified about my accusations of censorship upsetting the membership, no facts were shown in support of this; certainly there was no study, nor survey, nor any other analysis, to distinguish what parts of the congregation might have been, or might not have been, upset. Further, **if my accusations are true** (and there being no assertion to the contrary in the Charges in the Citation, nor other reasonable evidence), **and if there is an inequity in the system, then the congregation could understandably be upset, for inequity is contrary to the spirit and purpose of Advent and the ELCA.**

The 5th point of the Citation accused me of "Having not gained one known supporter over this time." For Tim to have shown this, he needed to have called every church member as a witness

and eliminate potential supporters one by one. Tim failed to call even one church member as a witness. It is not realistic or logical to presume that no other member would support my position, and I hope the Synod will concur with me. The burden of proof was on Tim; yet, Council by its vote accepted as true all allegations in the Citation without any legitimate supporting evidence or documentation.

Pastor Beck said (40 minutes into the hearing) that contacting the national office and the Synod office with accusations of censorship has upset the membership, and that is why the Ch. 15 process is being addressed. Pastor Beck continued and said there are not a lot of other issues other than censorship (but fails to say what any other issues are). Therefore it clearly appears that, in Pastor Beck's mind, the reason for the Ch. 15 disciplinary hearing is to quell (censor) my accusations of censorship, while avoiding the issue of whether my accusations are true.

Pastor Beck said (41 minutes into the hearing) "We're not gonna detail every little thing, Charlie [in the Citation]." This statement shows that Pastor Beck believes it is OK to expel a member over something, however vague, even leaving it out of the Citation for convenience. Pastor Beck continues, "It puts us in a bad light, especially when you put something on the website." Clearly here, the church leaders have a personal and subjective bias or prejudice (being in a bad light) as a basis for pursuing the Ch. 15 matter, and they should have been disqualified from voting. Pastor Beck unwittingly supports my argument that those officers who signed the letter of 1/19/2011 should have been disqualified to vote. A Ch. 15 action should not be used to further the personal whims and views of a small group of individuals.

Pastor Beck continues (42 minutes into the hearing) with, "That's not a true statement" as he refers to my allegations of censorship. This was my first formal notice that even one of my assertions was false. It is inappropriate for the Pastor and Council officers to prepare a Citation, not alleging any untruthfulness, and then at the Ch. 15 hearing to spring a surprise and arrange for the Pastor to allege that I had been untruthful in my assertions.

Pastor Beck (42-43 minutes into the hearing) conveniently mixes the two meetings (11/03/2011 and 11/29/2011), and he conveniently avoids clarification and mixes the events of the two meetings. No one at the hearing could notice this, other than James, Mark, and me. Pastor Beck then conveniently could make any assertion, whether true or not, to fit either date.

Admonishments.

Any Ch. 15 admonishment given by a Pastor in private should be substantively the same admonishment given afterwards before two witnesses (James Cassens and Mark Dentler). If Pastor Beck admonished me on 11/29/2011 to specifically stop doing something, and if James Cassens and Mark Dentler were present as witnesses shortly thereafter and witnessed a repeat of such admonishment, one must wonder why neither James nor Mark testified about it. I suggest this was because each of them knew there had been no admonishment when they were present.

James Cassens (43 minutes into the hearing) asked me, "Charlie, are you claiming that you were never asked to remove the web site? Is that what you're saying?" James's question injects confusion and clouds the fact that an admonishment must come from the Pastor, and not from just anyone or from a group. **An admonishment from the Pastor must come from the Pastor**

alone. There is a big difference between Tim (Complainant) asking me a year earlier to remove the web site, and Pastor Beck admonishing me a year later to remove it on the date (whatever it may be) of the admonishment. James's question was either based on ignorance, or it was done to intentionally inject confusion into the hearing. Even if Pastor Beck had admonished me on 11/29/2011 to remove the web site, this would have been ridiculous, because—as stated in my letter of 12/12/2011—**the web site had been taken down (made “inaccessible”)**. When I met with Pastor Beck on 11/29/2011, he pointed out no fault. He did not admonish me to avoid anything. This is rather strange, as supposedly two people (James and Mark) supposedly witnessed an admonition, yet failed to testify about it, even though **the admonishment and the witnesses of same are essential elements and prerequisites necessary to support any accusation and decision.**

I respectfully urge the Synod Council to accept this document as a supplement to my appeal in the interest of justice and fairness. Clearly, I did not have access to certain compelling facts, nor awareness of them, through no fault of my own, sufficiently prior in time for such facts to be addressed in my appeal, thereby enhancing the strength and substance of my appeal. Acceptance of this supplement would serve to ameliorate the disadvantage caused by such lack of timely access to such compelling and exculpatory facts.
